

UNITED STATES APPEALS COURT
FOR THE FIFTH CIRCUIT

TOM FRANKLIN, et al.,

Appeal No. _____

Plaintiffs

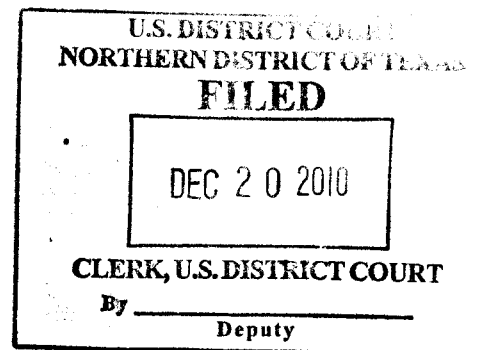
v.

Civil Action No. 4:10-CV-847-Y

US BANK National Association

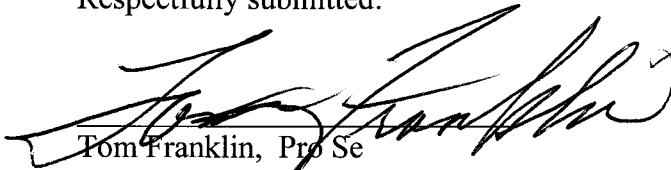
Defendant

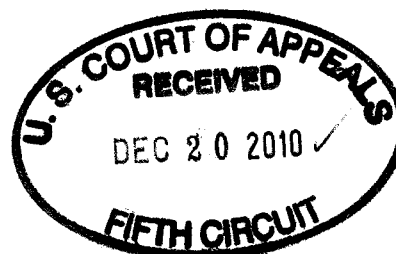
NOTICE OF APPEAL



Notice is hereby given that Tom Franklin, Plaintiff in the above named cases, hereby appeal to the United States Court of Appeals For The Fifth Circuit from the order dismissing this case in this action on ___13th _____ day of December, 2010.

Respectfully submitted:


Tom Franklin, Pro Se
5633 Oak Grove Road
Fort Worth, Texas 76134



CERTIFICATE OF SERVICE

I, the appellant /Plaintiff Tom Franklin, hereby certify that a true and corrected copy of the foregoing Appellants notice of appeal has been served upon the Attorneys of record for the Appellees by United States mail, return receipt requested, on this 13th day of December, 2010.

US National Bank Association

A handwritten signature in black ink, appearing to read 'Tom Franklin', written over a horizontal line.

Tom Franklin, Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOM FRANKLIN,

VS.

U.S. NATIONAL BANK ASSOCIATION

§

§

§ CIVIL ACTION NO.4:10-CV-847-Y

§

§

ORDER OF DISMISSAL FOR LACK OF PROSECUTION

This case was transferred to this Court from the United States District Court for the Eastern District of New York by an order entered on November 4, 2010. On November 8, 2010, plaintiff Tom Franklin was ordered to cure a deficiency in his in-forma-pauperis application by filing an asset and expense questionnaire within 30 days. The order informed Plaintiff that failure to timely comply within 30 days could result in the dismissal of his action without further notice for failure to prosecute under Federal Rule of Civil Procedure 41(b). A copy of the November 8, 2010, order was mailed to plaintiff Franklin at his address of record. As of the date of this order, however, plaintiff Franklin has failed to cure the deficiency, or otherwise file any document responsive to the Court's order.¹

Therefore, all of Plaintiff's claims are DISMISSED for lack of prosecution, without prejudice to their being refiled. See FED. R. Civ. P. 41(b).

SIGNED December 14, 2010.


TERRY R. MEANS

UNITED STATES DISTRICT JUDGE

¹Franklin filed a document on November 26, 2010, which has been construed as a notice of appeal. In that document Franklin alleges a challenge to an order entered on "November 4, 2010," which appears to be a reference to the order transferring this case.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOM FRANKLIN,

VS.

U.S. NATIONAL BANK ASSOCIATION

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CIVIL ACTION NO. 4:10-CV-847-Y

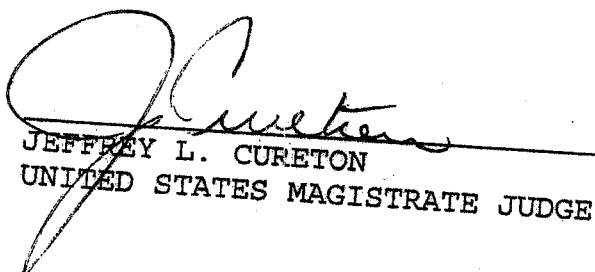
U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
DEC 13 2010
CLERK, U.S. DISTRICT COURT
By Denny

ORDER RETURNING CASE TO DISTRICT JUDGE

This case was transferred to this Court from the United States District Court for the Eastern District of New York by an order entered on November 4, 2010. Pursuant to an order regarding Plaintiff's motion to proceed in forma pauperis entered in the above-styled and numbered cause on November 8, 2010, Plaintiff was then directed to file an asset and expense questionnaire within thirty days. The November 8, 2010, order informed plaintiff Franklin that failure to submit the required questionnaire within thirty (30) days could result in the dismissal of Plaintiff's complaint without further notice under Federal Rule of Civil Procedure 41(b). As of the date of this Order, Franklin has failed to submit a completed questionnaire.

IT IS THEREFORE ORDERED that this action should be returned to the United States District Judge for such other action as may be deemed appropriate.

SIGNED December 13, 2010.


JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOM FRANKLIN,

VS.

U.S. NATIONAL BANK ASSOCIATION

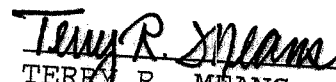
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CIVIL ACTION NO.4:10-CV-847-Y

FINAL JUDGMENT

In accordance with the order issued this same day and Federal Rule of Civil Procedure 58, all of Plaintiff's claims are DISMISSED for lack of prosecution, without prejudice to being refiled. All costs of court are taxed against the party that incurred them.

SIGNED December 14, 2010.



TERRE R. MEANS

UNITED STATES DISTRICT JUDGE

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

JAN 18 2011
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

January 11, 2011

Ms. Karen S. Mitchell
Northern District of Texas, Fort Worth
United States District Court
501 W. 10th Street
Room 310
Fort Worth, TX 76102

Tom Franklin v. US Bank NA, et al
USDC No. 4:10-CV-847 - Y

I am forwarding a notice of appeal erroneously sent to us. We have noted the date received here. When you file the notice of appeal, please use that date, see FED. R. APP. P. 4(d).

Sincerely,

LYLE W. CAYCE, Clerk

Mary Stewart
By: _____
Mary C. Stewart, Deputy Clerk
504-310-7694

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